



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,104	07/18/2003	Cin Kim	04394/000M995-US0	2893

7278 7590 02/11/2005

DARBY & DARBY P.C.

P. O. BOX 5257

NEW YORK, NY 10150-5257

EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,104

Applicant(s)

KIM, CIN

Examiner

Gary C Hoge

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-32 is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8,10-13,15-27 and 33-35 is/are rejected.
- 7) ☒ Claim(s) 4,5,9,14,28 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the square, rectangle, triangle, oval and oblong shape recited in claim 13, the swash of color recited in claim 15, and the complementary patterns recited in claim 32 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 34 has been renumbered to 35. ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 10-13, 15, 22-24, 26, 27 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzgibbon.

See Fig. 3. Fitzgibbon discloses a retail display accessory comprising a body section **21** that is constructed to be carried by a first article of clothing **10**. The opening **23** constitutes a first indicia section identifying a predominant color of the first article of clothing, and the body section has a second indicia section **20** that identifies colors for a second article of clothing that are complementary to the color of the first article of clothing.

Regarding claim 2, this amounts to a statement of intended use, and only requires the ability to be used in the way intended. The accessory disclosed by Fitzgibbon could be used with ties and shirts.

Regarding claim 13, each area **24** is oblong.

Art Unit: 3611

5. Claims 1-3, 6-8, 10, 11, 15, 22 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Field.

Field discloses a retail display accessory comprising a body section **10** that is constructed to be carried by a first article of clothing **11**. The opening **12** constitutes a first indicia section identifying a predominant color of the first article of clothing, and the body section has a second indicia section **15** that identifies colors for a second article of clothing that are complementary to the color of the first article of clothing.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgibbon.

Fitzgibbon discloses the invention substantially as claimed, as set forth above. However, Fitzgibbon does not disclose the specific colors recited. It is well known that articles of clothing are made in virtually an infinite number of colors. Therefore, the use of any combination of colors that the manufacturer of the accessory deems complimentary, including those recited, would have been an obvious matter of choice in design.

8. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field.

Field discloses the invention substantially as claimed, as set forth above. However, Field does not disclose the specific colors recited. It is well known that articles of clothing are made in virtually an infinite number of colors. Therefore, the use of any combination of colors that the

manufacturer of the accessory deems complimentary, including those recited, would have been an obvious matter of choice in design.

9. Claims 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field in view of Fitzgibbon.

Field discloses the invention substantially as claimed, as set forth above. However, each accessory includes only a single color indicator. Fitzgibbon teaches that it was known in the art to provide a plurality of color indicators in order to enable a single accessory to identify multiple coordinating garments. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the accessory disclosed by Field with a plurality of color indicators, as taught by Fitzgibbon, in order to enable a single accessory to identify multiple coordinating garments.

Allowable Subject Matter

10. Claims 4, 5, 9, 14, 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 30-32 are allowed.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

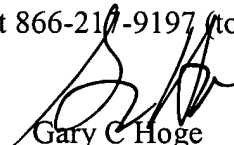
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C Hoge whose telephone number is (703) 308-3422. After

Art Unit: 3611

April 5, 2005, the examiner's telephone number will be (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge
Primary Examiner
Art Unit 3611

gch